

mortgage lending in under-served areas the Secretary may determine not to place the mortgagee on credit watch status.

(5) *Effect of credit watch.* Insured mortgages originated during a six month period from the date of the credit watch notice will be reviewed for excessive default rates. A mortgagee will be removed from credit watch status if the rate of defaults and claims for the six month tracking period decreases to 150 percent or less one year after that six month tracking period. The origination approval agreement for a mortgagee subject to credit watch may be terminated if the mortgagee's rate of defaults and claims on insured mortgages originated in an area during the six month tracking period is more than 150 percent of the normal rate one year after that six month tracking period. The Secretary shall provide 60 days notice and an opportunity for an informal conference as required by §202.11(d)(3)(iii) to a mortgagee which will have its origination approval agreement terminated subsequent to a credit watch.

(e) *Effects of termination of origination approval agreement.* Termination of the origination approval agreement shall not affect:

(1) The Secretary's ability to insure eligible mortgages, absent fraud or misrepresentation, if the mortgagor and all terms and conditions of the mortgage were approved before the termination by the Direct Endorsement mortgagee or by a firm commitment issued by the Secretary, but no other mortgages originated by the mortgagee shall be insured unless a new originated approval agreement is accepted by the Secretary.

(2) A mortgagee's obligation to continue to pay insurance premiums and meet all other obligations associated with insured mortgages;

(3) A mortgagee's right to reapply for a new origination approval agreement provided that the mortgagee is still an approved mortgagee, the general approval requirements at §202.12 and the specific requirements of §202.13 through §202.19 continue to be met, and the Secretary determines that the underlying causes for termination have been satisfactorily remedied; or

(4) A mortgagee's right to purchase insured mortgages or to service its own portfolio or the portfolios of other mortgagees with which it has a servicing contract.

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§202.12 General approval requirements.

To be approved for participation in the mortgage insurance programs authorized by the National Housing Act, except Title I of the Act, and to maintain approval, a mortgagee shall meet the general requirements of this section (except as provided in §202.17(b)) and the specific requirements of §202.13 through §202.19, as appropriate.

(a) *Business form.* It shall be a corporation or other chartered institution, a permanent organization having succession or a partnership. All partnerships must meet the requirements of paragraphs (a)(1) through (a)(4) of this section.

(1) Each general partner must be a corporation or other chartered institution consisting of two or more persons.

(2) One general partner must be designated as the managing general partner. The managing general partner shall comply with the requirements of paragraphs (b), (c) and (g) of this section. The managing general partner must have as its principal activity the management of one or more partnerships, all of which are mortgage lenders, and must have exclusive authority to deal directly with the Secretary on behalf of each partnership. Newly admitted partners must agree to the management of the partnership by the designated managing general partner. If the managing general partner withdraws or is removed from the partnership for any reason, a new managing general partner shall be substituted, and the Secretary shall be immediately notified of the substitution.

(3) The partnership agreement shall specify that the partnership shall exist for the minimum term of years required by the Secretary. All insured mortgages held by the partnership shall be transferred to a HUD approved

mortgagee prior to the termination of the partnership. The partnership shall specifically be authorized to continue its existence in the event that a partner withdraws.

(4) The Secretary must be notified immediately of any amendments to the partnership agreement which would affect the partnership's actions under any mortgage insurance program administered by the Secretary.

(b) *Employees.* It shall employ competent personnel trained to perform their assigned responsibilities, including origination, servicing and collection activities, and adequate staff and facilities to originate and service mortgages in accordance with applicable regulations, to the extent the mortgagee engages in such activities.

(c) *Officers.* All employees who will sign applications for mortgage insurance on behalf of the mortgagee shall be corporate officers or shall otherwise be authorized to bind the mortgagee in matters involving the origination of mortgage loans.

(d) *Escrows.* It shall not use escrow funds for any purpose other than that for which they were received. It shall segregate escrow commitment deposits, work completion deposits, and all periodic payments received under insured mortgages on account of ground rents, taxes, assessments, and insurance premiums, and shall deposit such funds with one or more financial institutions in a special account or accounts that are fully insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration, except as otherwise provided in writing by the Secretary.

(e) [Reserved]

(f) *Servicing.* It shall comply with the servicing responsibilities contained in subpart C of part 203 and in part 207, and with all other applicable regulations contained in this title 24, and with such additional conditions and requirements as the Secretary may impose.

(g) *Business changes.* It shall provide prompt notification, on a form prescribed by the Secretary, of all changes in its legal structure, including, but not limited to, mergers, terminations, name, location, control of ownership, and character of business.

(h) *Reports.* It shall file the following reports, records and documentation:

(1) Upon application for approval and with each annual recertification, a certification that the mortgagee has not been refused a license and has not been sanctioned by any State or States in which it will originate insured mortgages;

(2) A yearly verification report on a form prescribed by the Secretary;

(3) An audited or unaudited financial statement, within 30 days of the end of each fiscal quarter in which the mortgagee experiences an operating loss of 20 percent of its net worth, and until the mortgagee demonstrates an operating profit for two consecutive quarters or until the next recertification, whichever is the longer period; and

(4) A statement of net worth within 30 days of the commencement of voluntary or involuntary bankruptcy, conservatorship, receivership or any transfer of control to a Federal or State supervisory agency.

(i) *Financial statements.* It shall, upon request by the Secretary, submit a copy of its latest financial statement, submit such information as the Secretary may request, and submit to an examination of that portion of its records which relates to its insured mortgage activities.

(j) *Quality control plan.* It shall implement a written Quality Control Plan, acceptable to the Secretary, that assures compliance with the regulations and other issuances of the Secretary regarding mortgage origination and servicing.

(k) *Fees.* A mortgagee, other than one meeting the requirements of §202.17, shall pay an application fee and annual fees, including additional fees for each branch office authorized to submit applications for mortgage insurance, in such amounts and at such times the Secretary may require. The Secretary may identify classes or groups of mortgagees that are exempt from one or more of these fees.

(l) *Ineligibility.* At the time of application and at all times while approved as a mortgagee, neither the applicant mortgagee nor any officer, partner, director, principal or employee of the applicant mortgagee shall:

(1) Be suspended, debarred or otherwise restricted under part 24 or part 25 of this title, or under similar procedures of any other Federal agency;

(2) Be indicted for, or have been convicted of, an offense which reflects upon the responsibility, integrity or ability of the mortgagee to be an approved mortgagee;

(3) Be subject to unresolved findings as a result of HUD or other governmental audits or investigations; or

(4) Be engaged in business practices that do not conform to generally accepted practices of prudent mortgagees or that demonstrate irresponsibility.

(m) *Branch offices.* A mortgagee approved under §§202.13 or 202.14, or a mortgagee that meets the definition of a supervised mortgagee under §202.13 and applies for approval as a loan correspondent under §202.15, may maintain branch offices for the submission of applications for mortgage insurance, provided that registration of such branches is maintained with the Secretary. A nonsupervised loan correspondent approved under §202.15 will be required to provide evidence that it complies with net worth requirements for itself and all of its branches, as set forth in §202.12(n)(3). The mortgagee shall remain fully responsible to the Secretary for the actions of its branch offices.

(n) *Net worth.* It shall have and maintain a net worth, in assets acceptable to the Secretary, of the following amounts.

(1) Supervised mortgagees under §203.13 and non-supervised mortgagees under §202.14, including sponsors of loan correspondents, shall have a net worth at least equal to \$250,000, plus one percent of the volume of mortgages in excess of \$25,000,000, up to a maximum required net worth of \$1,000,000. Mortgage volume shall include insured mortgages originated, serviced, and purchased by the mortgagee in the preceding fiscal year of the mortgagee. To determine mortgage volume, the Secretary will add the aggregate original principal amount of the mortgages that were endorsed for insurance during the mortgagee's prior fiscal year and the aggregate principal amount of all insured mortgages serviced except those that were originated by the

mortgagee or purchased from its loan correspondent(s) by the mortgagee at the end of the mortgagee's prior fiscal year. The mortgage volume for loan sponsors shall also include the aggregate principal amount of mortgages purchased from its loan correspondent(s) during the mortgagee's prior fiscal year.

(2) Mortgagees approved for participation only in the multifamily mortgage insurance programs under §202.11(a)(2) are required to have a net worth of at least \$250,000.

(3) Mortgagees which are loan correspondents under §202.15 shall have a net worth of at least \$50,000 and at least an additional \$25,000 net worth for each branch office of the loan correspondent up to a combined maximum required net worth of \$250,000.

(4) Mortgagees approved under §§202.16 and 202.17 are not required to maintain a specific net worth.

(5) Mortgagees shall have the required net worth upon approval, except that supervised and nonsupervised mortgagees may have a net worth of \$250,000 for the first year of approval.

(o) [Reserved]

(p) *Conflict of interest.* A mortgagee may not pay anything of value, directly or indirectly, in connection with any insured mortgage transaction or transactions to any person or entity if such person or entity has received any other consideration from the mortgagor, seller, builder, or any other person for services related to such transactions or related to the purchase or sale of the mortgaged property, except that consideration as may be approved by the Secretary may be paid for services actually performed. The mortgagee shall not pay a referral fee to any person or organization.

(q) *Liquid assets.* It shall maintain liquid assets consisting of cash or its equivalent acceptable to the Secretary in the amount of 20 percent of its net worth, up to a maximum liquidity requirement of \$100,000.

(r) *Fidelity bond.* Except for loan correspondents, the mortgagee shall maintain fidelity bond coverage and errors and omissions insurance acceptable to the Secretary and in an amount required by the Secretary, or alternative insurance coverage approved by the

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Secretary, that assures the faithful performance of the responsibilities of the mortgagee.

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§ 202.13 Supervised mortgagees.

(a) *Definition.* A supervised mortgagee is a financial institution which is a member of the Federal Reserve System or an institution whose accounts are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration.

(b) *General functions.* A supervised mortgagee may submit applications for mortgage insurance, and may purchase, hold, service or sell insured mortgages.

(c) *Special requirement.* In addition to the general approval requirements in § 202.12, a supervised mortgagee shall promptly notify the Secretary in the event of termination of its supervision by its supervising agency.

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§ 202.14 Nonsupervised mortgagees.

(a) *Definition.* A nonsupervised mortgagee is a financial institution that has as its principal activity the lending or investment of funds in real estate mortgages, and which is not approved under § 202.13, § 202.15, § 202.16, or § 202.17 of this chapter.

(b) *General functions.* A nonsupervised mortgagee may submit applications for the insurance of mortgages and may purchase, hold, service or sell insured mortgages.

(c) *Special requirements.* In addition to the general approval requirements in § 202.12, a non-supervised mortgagee shall meet the following requirements:

(1) Except for multifamily mortgagees, it shall have and maintain a warehouse line of credit or other mortgage funding program acceptable to the Secretary which is adequate to fund the mortgagee's average 60 day origination production pipeline, but not less than a \$1,000,000 warehouse line of credit or funding program.

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(2) It shall file an audit report with the Secretary within 90 days of the close of its fiscal year (or within an extended time if an extension is granted in the sole discretion of the Secretary), and at such other times as may be requested. Audit reports shall be based on audits performed by a Certified Public Accountant, or by an Independent Public Accountant licensed by a regulatory authority of a State or other political subdivision of the United States on or before December 31, 1970, and shall include:

(i) A financial statement in a form acceptable to the Secretary, including a balance sheet and a statement of operations and retained earnings, and analysis of the mortgagee's net worth, adjusted to reflect only assets acceptable to the Secretary, and an analysis of escrow funds;

(ii) A report on compliance tests prescribed by the Secretary; and

(iii) Such other financial information as the Secretary may require to determine the accuracy and validity of the audit report.

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§ 202.15 Loan correspondents.

(a) *Definitions.*

A *loan correspondent* is a mortgagee approved by the Secretary and which either has as its principal activity the origination of mortgages for sale or transfer to a sponsor or sponsors or meets the definition of a supervised mortgagee in § 202.13(a) but applies for approval as a loan correspondent.

A *sponsor* is a mortgagee which holds a valid origination approval agreement, is approved to participate in the Direct Endorsement program, and meets the net worth requirement at § 202.12(n)(1).

(b) *General functions.* A loan correspondent may submit applications for the insurance of mortgages. A loan correspondent may not sell insured mortgages to any mortgagee other than its sponsor or sponsors without the prior approval of the Secretary, nor may it hold, purchase or service insured mortgages in its own portfolio.

(c) *Special requirements.* In addition to the general approval requirements in § 202.12, a loan correspondent shall